

## **CHAPTER 62**

### **LANDSCAPE IRRIGATION CONTRACTORS**

#### **Authority**

N.J.S.A. 45:5AA-1 et seq., particularly 45:5AA-6(f) and (g).

#### **Source and Effective Date**

R.2006 d.435, effective November 20, 2006.  
See: 38 N.J.R. 3109(a), 38 N.J.R. 5357(a).

#### **Chapter Expiration Date**

Chapter 62, Landscape Irrigation Contractors, expires on November 20, 2011.

#### **Chapter Historical Note**

Chapter 62, Landscape Irrigation Contractors, was adopted as R.1996 d.21, effective January 2, 1996. See: 27 N.J.R. 1098(a), 28 N.J.R. 148(a).

Pursuant to Executive Order No. 66(1978), Chapter 62, Landscape Irrigation Contractors, expired on January 2, 2001.

Chapter 62, Landscape Irrigation Contractors, was adopted as new rules by R.2001 d.225, effective July 2, 2001. See: 32 N.J.R. 3888(a), 33 N.J.R. 746(b), 33 N.J.R. 2289(a).

Chapter 62, Landscape Irrigation Contractors, was readopted as R.2006 d.435, effective November 20, 2006. See: Source and Effective Date. See, also, section annotations.

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#### **SUBCHAPTER 1. GENERAL PROVISIONS**

##### **7:62-1.1 Scope**

Unless otherwise provided by a rule or statute, this chapter shall constitute the rules of the Landscape Irrigation Contractors Examining Board. These rules are promulgated pursuant to N.J.S.A. 45:5AA-1 et seq.

##### **7:62-1.2 Construction**

These rules shall be liberally construed to permit the Landscape Irrigation Contractors Examining Board to discharge its statutory functions.

##### **7:62-1.3 Practice where rules do not govern**

(a) The Board may rescind, amend, or expand these rules from time to time in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(b) The Board shall exercise its discretion with respect to any other matters not governed by these rules.

##### **7:62-1.4 Definitions**

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Board" means the Landscape Irrigation Contractors Examining Board established pursuant to N.J.S.A. 45:5AA-5 et seq.

"Business entity" means a business primarily engaged in landscape irrigation contracting.

"Candidate" means a person who is in the process of obtaining certification.

"Certificate" or "certification" means the certificate issued by the Board pursuant to N.J.S.A. 45:5AA-6c et seq.

"Certificate holder" means the person to whom the Board has issued the certificate.

"Certified landscape irrigation contractor" means a person engaged in the construction, repair, maintenance, improvement, and/or alteration of any portion of a landscape irrigation system who has successfully completed the requirements for certification and has a valid current certificate pursuant to N.J.S.A. 45:5AA-4 et seq. and 45:5AA-5a et seq. and this chapter.

"Department" means the Department of Environmental Protection.

"Division" means the Division of Revenue within the Department of Treasury.

"Duly authorized representative" means a person or company retained by the Board to perform administrative and/or testing functions.

"Examination" means a comprehensive examination to evaluate the knowledge, ability, and fitness of an applicant to perform as a landscape irrigation contractor.

"Experience" means working with the construction, repair, maintenance, improvement, and alteration of a landscape irrigation system and/or educational experience regarding landscape irrigation systems, which the Board may allow to be substituted for actual landscape irrigation experience. Field experience of at least three years must be acquired while employed under a certified irrigation contractor after January 1, 1997, the effective date of the N.J.S.A. 45:5AA-3. Educational experience shall be accepted by the Board as a substitute for one year's field experience only. Such educational substitution must consist of 12 college credits or 150 course hours of instruction related to landscape irrigation that is sponsored by a trade association, a college, a manufacturer or distributor of landscape irrigation equipment, or similar industrial source, or by this Board. Credit for educational experience may only be utilized to satisfy a maximum of one year of the three-year experience requirement.

"Landscape irrigation contracting" means the construction, repair, maintenance, improvement and alteration of any portion of a landscape irrigation system or drip irrigation system, including required wiring within the system and connection to the required power supply and the installation and connection to a public or private water supply system under terms and conditions of a contract.

"Landscape irrigation system" means any assemblage of components, materials or special equipment which is designed, constructed and installed for controlled dispersion of water from any safe and suitable source, including properly treated wastewater, for the purpose of irrigating landscape vegetation or the control of dust and erosion on

landscape areas, including drip irrigation systems, integral pumping systems or integral control systems for manual, semi-automatic or automatic control of the operation of these systems.

"Registered certificate holder" means the person to whom the Board has issued a certification for landscape irrigation contracting and who has filed and been recorded by the Board as the person responsible for supervision of landscape irrigation work performed pursuant to 7:62-4.3.

"Revocation" means a surrender of a certificate, requiring the certified contractor to return the certificate to the Board and formally reapply for the examination at the end of the stated period of surrender.

"Suspension" means a temporary termination of a certificate, requiring the certified contractor to request the Board to reinstate his or her certificate at the end of the period of temporary termination.

Amended by R.2001 d.225, effective July 2, 2001.

See: 32 N.J.R. 3888(a), 33 N.J.R. 746(b), 33 N.J.R. 2289(a).

Deleted "Bureau"; in "Certified landscape irrigation contractor", inserted "and has a valid current certificate"; added "Division"; rewrote "Experience".

Amended by R.2006 d.435, effective December 18, 2006.

See: 38 N.J.R. 3109(a), 38 N.J.R. 5357(a).

Added definitions "Business entity", "Registered certificate holder", "Revocation" and "Suspension"; in definition "Certificate", inserted "or 'certification' "; and in definition "Experience", rewrote the second sentence.

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## SUBCHAPTER 2. CERTIFICATION

### 7:62-2.1 Application for certification

(a) Upon request, each candidate shall be furnished with an application for certification by the Board or its duly authorized representative.

(b) In order to be considered by the Board or its duly authorized representative, an application must include the applicant's name, home address, social security number, most recent W-2, business address, business trade name, Federal employer identification number, New Jersey sales tax number, insurance company name and policy number for general liability/workmen's compensation insurance, a detailed description of the applicant's field experience of at least three years while employed under a certified irrigation contractor after January 1, 1997 -- the effective date of N.J.S.A. 45:5AA-3, proof that the applicant is 18 years and older, a certification that the applicant has no prior violations of this chapter and the appropriate fee. Also, the applicant shall not have had his or her landscape irrigation contractors certificate revoked within one year of the date of the application. Additional documentation may be required if

the Board deems it necessary to determine whether the applicant meets the above criteria.

(c) The Board or its duly authorized representative shall notify the candidate when his or her application has been deemed complete. Upon such notification, the candidate shall submit to the Board or its duly authorized representative a completed form requesting to take the examination and the required examination fee.

(d) If the Board or its duly authorized representative deems the application incomplete or finds that the candidate does not meet the requirements set forth in the Landscape Irrigation Contractor Certification Act, N.J.S.A. 45:5AA-1 et seq., it shall reject the application and notify the candidate of the reasons for rejection. The application fee shall not be refundable.

(e) Each candidate has a period of two years from the date his or her application is complete to pass the examination. An application shall expire two years and one day from the date it is deemed complete by the Board or its duly authorized representative. A candidate shall be required to submit a new application and application fee once an application has expired.

(f) To be admitted to take the examination, a candidate shall produce at the exam, the scheduling letter and a valid government issued photo identification, such as a drivers license or a passport.

Amended by R.2001 d.225, effective July 2, 2001.  
See: 32 N.J.R. 3888(a), 33 N.J.R. 746(b), 33 N.J.R. 2289(a).

In (b), deleted "(optional)" following "social security number".

Amended by R.2006 d.435, effective December 18, 2006.  
See: 38 N.J.R. 3109(a), 38 N.J.R. 5357(a).

Rewrote (b); deleted (c); recodified (d) through (f) as (c) through (e); in (c), substituted "form requesting to take the examination" for "request to take examination form"; in (e), deleted "of" preceding "his", inserted "is complete" and substituted "deemed complete" for "received"; and added new (f).

#### **7:62-2.2 Notification of pass-fail**

To receive certification, a candidate is required to obtain a passing score on the examination. The passing score will be set by the Board or its duly authorized representative. The Board or its duly authorized representative shall notify all candidates whether they have passed the examination within 60 days of the date of examination.

#### **7:62-2.3 Passed candidates**

The Board or its duly authorized representative shall issue a certificate to each candidate who successfully passes the examination and otherwise meets the standards and

qualifications set forth in the Landscape Irrigation Contractor Certification Act, N.J.S.A. 45:5AA-1 et seq. Each initial certificate issued pursuant to the act shall expire on January 31 of the second calendar year following issuance. A candidate who passes the exam shall have one year from the date of notification to complete the certification process and pay the required fees to obtain the certification. Otherwise, the candidate must reapply and retake and pass the examination before being eligible to obtain the certificate.

Amended by R.2006 d.435, effective December 18, 2006.  
See: 38 N.J.R. 3109(a), 38 N.J.R. 5357(a).

Inserted the last two sentences.

#### **7:62-2.4 Failed candidates**

A candidate who has failed the examination shall be sent the date and location of the next exam which they are eligible to take pursuant to 7:62-2.5. The candidate shall also be notified of those subject areas in which a passing grade was not achieved.

Amended by R.2001 d.225, effective July 2, 2001.  
See: 32 N.J.R. 3888(a), 33 N.J.R. 746(b), 33 N.J.R. 2289(a).

Rewrote the section.

#### **7:62-2.5 Re-examination**

A candidate who has failed the examination shall not be required to reapply for certification if said candidate's application has not expired. The candidate shall be allowed to retake the examination upon completing a request to take examination form and paying an examination re-take fee. The candidate shall wait a minimum of six months from the date he or she failed before he or she will be allowed to retake the examination.

#### **7:62-2.6 Renewal**

(a) The Board or its duly authorized representative shall issue a renewal of a certificate pursuant to N.J.S.A. 45:5AA-7c et seq.

(b) Each registered certificate holder shall renew his or her certification by submitting a complete renewal application and payment of the non-refundable bi-annual renewal fee to the Division. A renewal application shall include any change in address, employment, or business or company name. The renewal application and renewal fee must be received within 30 days prior to January 31 of the expiring year. Each renewed certificate shall remain valid for a period of two years and shall expire on January 31 of the second calendar year.

(c) If a renewal application and fee are not received, the certificate shall expire at 12:00 P.M. on January 31 of the expiring year. A certificate holder whose certificate has

expired may renew his or her certificate within two years of its expiration date upon submittal of a renewal application and payment of the renewal fee. A new certificate shall be required of a person who fails to renew a certificate within two years of its expiration.

Amended by R.2001 d.225, effective July 2, 2001.  
See: 32 N.J.R. 3888(a), 33 N.J.R. 746(b), 33 N.J.R. 2289(a).  
In (b), substituted "Division" for "Bureau".

Amended by R.2006 d.435, effective December 18, 2006.  
See: 38 N.J.R. 3109(a), 38 N.J.R. 5357(a).

In (b), inserted "registered" and "payment of the" and substituted "A renewal" for "An"; and in (c), substituted "the renewal" for "a prorated".

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## SUBCHAPTER 3. FEES

### 7:62-3.1 Fee schedule

(a) The fee schedule is as follows:

1. Application for certification	\$ 45.00
2. Re-application for certification	45.00
3. Examination fee	150.00
4. Examination re-take fee	150.00
5. Certification fee (initial)	300.00
6. Certification renewal fee (bi-annual)	300.00

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## SUBCHAPTER 4. OTHER PROVISIONS

### 7:62-4.1 Identification of certificate holders

(a) The Board or its duly authorized representative shall issue to the certificate holder an identification card. The certificate holder shall carry the identification card in his or her possession at all times while performing landscape irrigation contracting.

(b) Any certificate holder who has failed to renew the certificate or who has had the certificate suspended or revoked for any reason, shall immediately return the identification card to the Board or its duly authorized representative.

(c) Every business entity engaged in the business of landscape irrigation contracting as defined in N.J.S.A. 45:5AA-2c shall register with the Board a registered certificate holder who shall be responsible for supervision of the work performed by the business entity pursuant to 7:62-

4.3. A certificate holder shall be entitled to qualify as a registered certificate holder for only one business entity.

Amended by R.2006 d.435, effective December 18, 2006.  
See: 38 N.J.R. 3109(a), 38 N.J.R. 5357(a).  
Added (c).

### 7:62-4.2 Pressure seal

(a) Upon issuance of a certificate, the certificate holder is required to purchase a pressure seal.

(b) No person, other than the certificate holder to whom the seal has been issued, shall have the right to use aforesaid seal.

(c) The registered certificate holder shall emboss all construction applications, construction drawings, and construction contracts with the imprint of his or her seal.

Amended by R.2006 d.435, effective December 18, 2006.  
See: 38 N.J.R. 3109(a), 38 N.J.R. 5357(a).

In (c), inserted "registered" and deleted "permit" preceding "applications".

### 7:62-4.3 Supervision of work

The registered certificate holder shall assume full responsibility for the inspection, compliance, and supervision of all landscape irrigation work performed by the business entity.

Amended by R.2006 d.435, effective December 18, 2006.  
See: 38 N.J.R. 3109(a), 38 N.J.R. 5357(a).

Inserted "registered" and substituted "the business entity" for "his or her company and/or employees".

### 7:62-4.4 Enforcement

(a) Pursuant to N.J.S.A. 45:5AA-8 and 9, the Board may suspend or revoke a certificate and may assess civil penalties for violations of the Landscape Irrigation Contractor Certification Act. Those whose certificates have been suspended or revoked are entitled to a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, 1:1.

1. The minimum period of suspension shall be three months. The suspension shall terminate and the certificate be reinstated only when:

i. The suspension period has lapsed;

ii. The certificate holder has satisfactorily addressed all the items upon which the suspension had been based by providing written proof thereof; and

iii. The certificate holder has submitted a request in writing to the Board to have his or her certificate reinstated.

2. The minimum period of revocation shall be two years, but may be less if reason(s) for revocation have been addressed to the Board's satisfaction. At the end of the revocation period, the landscape irrigation contractor whose certificate has been revoked may apply as a new candidate pursuant to N.J.S.A. 45:5AA-4.

(b) Should the Board have cause to believe that any person is in violation of any provision of the Act or rules promulgated pursuant thereto, the Board may initiate an investigation. If, upon investigation, the Board determines that there has been a violation, the Board shall be authorized to order such violation to cease, to revoke or suspend a certificate and take such steps necessary to enforce the statute.

(c) Subject to the limitation on third party hearing rights specified in N.J.S.A. 52:14B-3.1 through 3.3, a person or entity aggrieved by a decision made by the Board may request a hearing. The written request for a hearing shall be submitted to:

Landscape Irrigation Contractors Examining Board  
Exams & Licensing  
PO Box 441  
Trenton, NJ 08625

(d) All hearing requests for a contested case hearing must be received by the Board within 20 days of the date upon which the Administrative Order was received.

(e) All requests for a contested case hearing shall be submitted in writing to the Board in accordance with (d) above and shall contain:

1. The name, address, and telephone number of the person making the hearing request;

2. A statement of legal authority and jurisdiction under which the hearing request is made;

3. A brief and clear statement of specific facts describing the Board's decision being appealed, as well as the nature and scope of the interest of the requesters in such decision; and

4. A statement of all facts alleged to be at issue and their relevance to the Board's decision for which a hearing is requested. Any legal issues associated with the alleged facts at issue must also be included.

(f) The Board shall determine whether any request for a contested case hearing should be granted. In making such determination, the Board shall evaluate the request to

determine whether a contested case exists and whether there are issues of fact which, if assumed to be true, might change the Board's decision. Where only issues of law are raised by a hearing request, the request will be denied. Denial by the Board of a request for a contested case hearing shall constitute a final agency order of the Board for the purposes of judicial appeal pursuant to the Rules of New Jersey Civil Practice.

(g) The jurisdiction of an appeal of a final agency decision lies within the Appellate Division of the Superior Court of the State of New Jersey.

Amended by R.2006 d.435, effective December 18, 2006.  
See: 38 N.J.R. 3109(a), 38 N.J.R. 5357(a).

Inserted designation (a) and added (a)1 through (g).

#### **7:62-4.5 Change of address**

Each certificate holder shall give notice to the Board or its duly authorized representative of any address change within 10 days of such change.

#### **7:62-4.6 Joint ventures**

(a) Where two or more persons form a joint venture for the purpose of contracting landscape irrigation work in New Jersey, each party to the joint venture shall hold a valid certificate to engage in landscape irrigation contracting in New Jersey.

(b) The term "persons," as used in (a) above, is defined to mean individuals, corporations, partnerships or other business entities.

#### **7:62-4.7 Continuation of business entity upon loss of registered certificate holder**

(a) The Board shall have the authority to allow a business entity to operate without civil penalty for failing to have a registered certificate holder for a period of up to six months from the date of the loss of the registered certificate holder if that business entity provides a written request to the Board within 10 business days of the loss of the registered certificate holder and:

1. Proof of the death or disability of the registered certificate holder; or

2. Proof of why the registered certificate holder no longer has such authority at the business entity.

(b) At the end of the six-month period, the Board may assess a civil penalty, in accordance with 7:62-4.1(c) and 4.4, for failure to have a registered certificate holder.

New Rule, R.2006 d.435, effective December 18, 2006.  
See: 38 N.J.R. 3109(a), 38 N.J.R. 5357(a).

#### **7:62-4.8 Plumbers exemption**

Licensed plumbing contractors, as defined in N.J.S.A. 45:14C-2, are exempt from having to obtain a landscape irrigation contractor certificate pursuant to N.J.S.A. 45:5AA if they are installing landscape irrigation systems as part of their plumbing contracting business. The existence of a plumber or plumbing contractor on staff or payroll does not exempt a landscape irrigation contractor from having to obtain certification. A landscape irrigation contractor, who may be the owner or an employee of the business, must obtain certification pursuant to the provisions of N.J.S.A. 45:5AA-1 et seq.

New Rule, R.2006 d.435, effective December 18, 2006.  
See: 38 N.J.R. 3109(a), 38 N.J.R. 5357(a).